

**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

Street: 603 EVERGREEN PLAZA BUILDING - 711 CAPITOL WAY

Mail: P.O. BOX 40919 OLYMPIA, WASHINGTON 98504-0919

(360) 753-3444

DO NOT WRITE IN THIS SPACE

COMPLAINT CHARGING UNFAIR LABOR PRACTICES

[] Amended Complaint in Case _____-U-_____-_____

Instructions: See other side of this form.

Applicable Rules: Chapters 10-08, 391-08 and 391-45 WAC.

1. PARTIES The named complainant alleges the named respondent has committed unfair labor practices in violation of the laws of the State of Washington, involving employees of the named employer.

a. EMPLOYER

CONTACT PERSON

ADDRESS

CITY/STATE

ZIP

TELEPHONE

(.....)

EXT.

FAX

(.....)

ATTORNEY or

REPRESENTATIVE

ADDRESS

CITY/STATE

ZIP

TELEPHONE

(.....)

EXT.

FAX

(.....)

b. RESPONDENT

CONTACT PERSON

ADDRESS

CITY/STATE

ZIP

TELEPHONE

(.....)

EXT.

FAX

(.....)

ATTORNEY or

REPRESENTATIVE

ADDRESS

CITY/STATE

ZIP

TELEPHONE

(.....)

EXT.

FAX

(.....)

c. COMPLAINANT

CONTACT PERSON

ADDRESS

CITY/STATE

ZIP

TELEPHONE

(.....)

EXT.

FAX

(.....)

ATTORNEY or

REPRESENTATIVE

ADDRESS

CITY/STATE

ZIP

TELEPHONE

(.....)

EXT.

FAX

(.....)

2. STATEMENT OF FACTS Attach separate sheets setting forth clear and concise statements of the facts constituting the unfair labor practices (including times, dates, places and participants in occurrences) in numbered paragraphs.

3. REMEDY REQUESTED Attach separate sheets setting forth the remedies requested for the claimed unfair labor practices.

4. AUTHORIZED SIGNATURE FOR COMPLAINANT

NAME (PRINT) TITLE

SIGNATURE DATE

5. RELATIONSHIPS**a. EMPLOYER'S PRINCIPAL BUSINESS****b. DEPARTMENT OR DIVISION INVOLVED****c. COLLECTIVE BARGAINING AGREEMENT** Indicate:

[] The parties have never had a contract; OR

[] A copy of the parties' current (or most recent) collective bargaining agreement is attached.

d. STATUS OF GRIEVANCE PROCEEDINGS Indicate:

[] No grievance has been filed on the dispute involved in this unfair labor practice complaint.

[] A grievance on the dispute involved in this unfair labor practice complaint is being processed under a contractual grievance procedure.

[] An arbitration award has been issued on a grievance on the dispute involved in this unfair labor practice case.

e. DESCRIPTION OF BARGAINING UNIT Indicate inclusions/exclusions, contract page or case/decision number:**f. NUMBER OF EMPLOYEES IN BARGAINING UNIT****6. ALLEGED VIOLATION(S)** Indicate:

[] EMPLOYER INTERFERENCE WITH EMPLOYEE RIGHTS [RCW 28B.52.073(1)(a); 41.56.140(1); or 41.59.140(1)(a)]

[] EMPLOYER DOMINATION OR ASSISTANCE OF UNION [RCW 28B.52.073(1)(b); 41.56.140(2); or 41.59.140(1)(b)]

[] EMPLOYER DISCRIMINATION [RCW 28B.52.073(1)(c); 41.56.140(1); or 41.59.140(1)(c)]

[] EMPLOYER DISCRIMINATION FOR FILING CHARGES [RCW 28B.52.073(1)(d); 41.56.140(3); or 41.59.140(1)(d)]

[] EMPLOYER REFUSAL TO BARGAIN [RCW 28B.52.073(1)(e); 41.56.140(4); or 41.59.140(1)(e)]

[] UNION INTERFERENCE WITH EMPLOYEE RIGHTS [RCW 28B.52.073(2)(a); 41.56.150(1); or 41.59.140(2)(a)]

[] UNION INDUCING EMPLOYER TO COMMIT VIOLATION [RCW 28B.52.073(2)(b); 41.56.150(2); or 41.59.140(2)(b)]

[] UNION DISCRIMINATION FOR FILING CHARGES [RCW 28B.52.073(2)(c); 41.56.150(3); or 41.59.140(2)(a)]

[] UNION REFUSAL TO BARGAIN [RCW 28B.52.073(2)(d); 41.56.150(4); or 41.59.140(2)(c)]

[] OTHER UNFAIR LABOR PRACTICE (Explain and specify statute on sheet of paper attached to this form.)

INSTRUCTIONS FOR UNFAIR LABOR PRACTICE CASES

- A. APPLICABLE RULES** The Public Employment Relations Commission (PERC) processes unfair labor practice cases under Chapter 391-45 WAC, Chapter 391-08 WAC and Chapter 10-08 WAC. The rules are available from PERC at (360) 753-3444 or on the web at www.olywa.net/perc. Parties should familiarize themselves with all of the rules applicable to their case.
- B. FORM** Fill in all information called for on the form. If you lack the information (such as what representative will be used by a party), insert "Unknown". For amended complaints, mark the box and insert the case number at the top of the form; highlight changes (such as by ~~strikeout~~, underline or **bold**).
- Item 1.a. Employer - Each case must arise out of an employment relationship subject to PERC jurisdiction. Information about the employer is needed, even if it is not directly involved in the unfair labor practice. If the employer is the "complainant" or "respondent", repeat the employer's name on the appropriate line, but it is not necessary to repeat the other information about the employer.
- Item 1.b. Respondent is the party accused of having committed an unfair labor practice. File a separate complaint for each named respondent.
- Item 1.c. Complainant is the party who files a case with PERC. A union may file one complaint on behalf of a group of employees, but individual employees with similar or related claims must each file their own separate complaint(s) with PERC.
- Item 2. **ATTACH A STATEMENT OF FACTS** on separate sheets, setting forth clear and concise statements of the facts constituting the alleged unfair labor practices (including times, dates, places and participants in occurrences). Use numbered paragraphs.
- Item 3. **ATTACH** separate sheets setting forth the remedies requested for the claimed unfair labor practices.
- Item 5.a. Examples are: "City", "County", "School District", "Community College", "Technical College", "University", "Port District".
- Item 5.b. Examples are: "Police Department", "Fire Department", "Public Works Department", "Multi-department", or "Employer-wide".
- Item 5.c. **ATTACH** the collective bargaining agreement, if one exists (single-sided, unbound documents are preferred).
- Item 5.d. Indicate the status of any grievance on the same subject as the unfair labor practice complaint.
- Item 5.e. Describe the bargaining unit by listing the types of employees included and excluded, OR the contract page where the "recognition" clause is found, OR the case number or decision number from the latest PERC certification or unit clarification.
- Item 5.f. Indicate the number of employees in the bargaining unit.
- Item 6. Indicate all types of unfair labor practices claimed. If more space is needed, **ATTACH ADDITIONAL SHEETS** containing the information.
- C. FILING** Take or send the completed and signed form with all attachments (plus one copy with all attachments) to PERC's Olympia office.
- D. SERVICE** Beginning with the filing of a complaint and continuing throughout the proceedings, any party that files any papers with PERC is required to give or send a copy to all other parties to the case. WAC 391-08-120 includes:
- (3) A party which files or submits any papers to the agency shall serve a copy of the papers upon all counsel and representatives of record, and upon all parties not represented by counsel or upon their agents designated by them or by law. Service shall be completed no later than the day of filing or submission under subsection (1) or (2) of this section, by one of the following methods:
- (a) Service may be made personally, and shall be regarded as completed when delivered in the manner provided in RCW 4.28.080;
- (b) Service may be made by first class, registered, or certified mail, and shall be regarded as completed upon deposit in the United States mail properly stamped and addressed.
- (c) Service may be made by telegraph or by commercial parcel delivery company, and shall be regarded as completed when deposited with a telegraph company or parcel delivery company properly addressed and with charges prepaid.
- (d) Service may be made by electronic telefacsimile transmission, and shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission, together with same day mailing of a copy of the papers, postage prepaid and properly addressed, to the person being served.
- On the same day that service of any papers is completed, WAC 391-08-120(4) requires the person who completed the service to either obtain an acknowledgment of service from the person who accepted personal service, or make a certificate stating the date and the approved method of service used by the person signing the certificate.
- E. PRELIMINARY RULING** The Executive Director of PERC will review the complaint under WAC 391-45-110. At that stage of the proceedings, all of the facts alleged in a complaint are assumed to be true and provable. The parties will be notified of any defects, and the complainant will be given time to correct defects or provide additional information. A failure to respond in a timely manner will result in dismissal. If no unfair labor practice could be found on the facts alleged, the complaint will be dismissed by written order. A complaint which states a cause of action may be deferred to arbitration, or may be assigned to an Examiner for a hearing.
- F. ANSWER** The respondent will be given a deadline to file its answer. Under WAC 391-45-210, the failure to file an answer will result in a "default" judgment against the respondent.
- G. HEARING AND BURDEN OF PROOF** If the facts are disputed in an answer, the Examiner will hold a hearing before making a decision on the case. The Commission and its Examiner maintain an impartial role in the proceedings:
- WAC 391-45-270 Hearings--Nature and scope.** Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its own complaint and shall have the burden of proof. ... It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: *Provided, however,* That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense. ...
- A transcript will be made of the hearing, and parties may file briefs. After all briefs are filed, a written decision will be issued and served on the parties, containing findings of fact and conclusions of law. Where an unfair labor practice violation is found, the decision will include a remedial order.